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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,801	04/13/2004	Bryan Witchey	18082.11	3066
7590	06/16/2005		EXAMINER	
Richard C. Litman LITMAN LAW OFFICES, LTD. P.O. Box 15035 Arlington, VA 22215			BOSWELL, CHRISTOPHER J	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/822,801

Applicant(s)

WITCHEY, BRYAN

Examiner

Christopher Boswell

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-2 and 5-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent Number 5,295,375 to Jonas.

Jonas discloses locking device having a base plate (6) having a plurality of bolt holes (3), two sleeves oriented normal to the base plate (24), a storage sleeve oriented parallel to the base plate (32), a lock mechanism (16) disposed on the base plate adjacent one of the sleeves, and a U-bar (28) having an arch shape portion and two parallel leg portions, where the leg portions are capable of being positioned inside the two sleeves (figure 2), wherein the locking mechanism is capable of securing the U-bar inside the sleeve (column 2, lines 48-57), as in claims 1 and 9.

Jonas also discloses the locking assembly having a housing (figures 4a and 4b) disposed on one of the sleeves and a lock mechanism (16) disposed within the housing, as in claim 2, wherein the locking assembly has a latch member (column 2, lines 55-57) extendible into a sleeve when the locking assembly is in the locked configuration, as in claim 5, wherein a notch (27) is formed in a leg of the U-bar, where the latch member engages the slot when the legs are inserted in the sleeves and the locking assembly is in the locked configuration, as in claim 6.

Jonas further discloses means for securing the legs of the U-bar in the storage sleeve (34), as in claims 7 and 10, as well as the base plate being capable of being attached to a safety cage,

Art Unit: 3676

figure 4a and 4b), as in claims 8 and 11, wherein each of the U-bar legs have a distal end passing through the base plate when the legs are inserted through the sleeves (figures 4a and 4b), the means for locking comprising a lock mechanism (16) removably attached to the distal end of at least one of the U-bar legs (column 2, lines 55-57), as in claim 12.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jonas, as applied above, in view of U.S. Patent Number 6,173,590 to Withey.

Jonas recites the invention substantially as claimed. Jonas teaches of a key operated locking mechanism. However, Jonas does not recite the locking mechanism is a combination lock mechanism. Withey teaches that key operated locks and combination-locking mechanisms are art recognized equivalents (column 2, lines 43-44) in the analogous art of skid steer locking devices for the purpose of placing the locking assembly in a locked condition. It would have been obvious to one with ordinary skill in the art at the time the invention of Jonas was made to utilize either a key locking mechanism or a combination controlled locking mechanism, as taught by Withey in order to place the locking assembly in either a locking condition or unlocked condition without the use of a key.

***Response to Arguments***

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CJB   
June 10, 2005

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SUPERVISORY PATENT EXAMINER  
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